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- 4 MARKUP OF H.R. 4292, "THE FOREIGN CULTURAL EXCHANGE
- 5 JURISDICTIONAL IMMUNITY CLARIFICATION ACT"; AND, H.R. 4323,
- 6 TO REAUTHORIZE PROGRAMS AUTHORIZED UNDER THE DEBBIE SMITH ACT
- 7 OF 2004, AND FOR OTHER PURPOSES.
- 8 Wednesday, April 2, 2014
- 9 House of Representatives
- 10 Committee on the Judiciary
- 11 Washington, D.C.

- 12 The committee met, pursuant to call, at 10:25 a.m., in
- 13 Room 2141, Rayburn Office Building, Hon Bob Goodlatte
- 14 [chairman of the committee] presiding.
- 15 Present: Representatives Goodlatte, Sensenbrenner,
- 16 Coble, Smith of Texas, Chabot, Forbes, King, Franks, Gohmert,
- 17 Jordan, Poe, Chaffetz, Marino, Labrador, Farenthold, Holding,

18 Collins, DeSantis, Smith of Missouri, Nadler, Scott, Cohen,

- 19 Chu, Deutch, Bass, DelBene, and Garcia.
- 20 Staff present: Shelley Husband, Majority Staff
- 21 Director; Branden Ritchie, Deputy Staff Director/Chief
- 22 Counsel; Allison Halataei, Parliamentarian; Zachary Somers,
- 23 Majority Counsel; Brian Northcutt, Majority Counsel; Kelsey
- 24 Deterding, Majority Clerk; Perry Apelbaum, Minority Staff
- 25 Director; Danielle Brown, Minority Parliamentarian; Ron
- 26 LeGrand, Minority Counsel; James Park, Minority Counsel.

28 Chairman Goodlatte. Good morning. The Judiciary Committee will come to order, and without objection, the 29 30 chair is authorized to declare a recess at any time. 31 Pursuant to notice, I now call up H.R. 4292 for purposes of markup and move that the committee report the bill 32 33 favorably to the House. 34 The clerk will report the bill. 35 Ms. Deterding. H.R. 4292, to amend Chapter 97 of Title 36 28 --37 Chairman Goodlatte. Without objection, the bill is considered as read and open for amendment at any point. 38 39 [The information follows:]

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41 Chairman Goodlatte. And I will begin by recognizing

- 42 myself for an opening statement.
- I would like to begin by thanking Mr. Chabot for
- 44 introducing this legislation and Mr. Conyers and Mr. Cohen
- 45 for their support as well. The Foreign Cultural Exchange
- 46 Immunity Clarification Act strengthens the ability of U.S.
- 47 museums and educational institutions to borrow foreign
- 48 government-owned art work and cultural artifacts for
- 49 temporary exhibition or display.
- 50 The United States has long recognized the importance of
- 51 encouraging the cultural exchange of ideas through
- 52 exhibitions of art work and other artifacts loaned from other
- 53 countries. These exchanges expose Americans to other
- 54 cultures and foster understanding between people of different
- 55 nationalities, languages, religions, and races.
- 56 Unfortunately, the future success of cultural exchanges
- 57 is severely threatened by a disconnect between the Immunity
- 58 From Seizure Act and the Foreign Sovereign Immunities Act.
- 59 Loans of artwork and cultural objects depend on foreign
- 60 lenders having confidence that the items they loan will be
- 61 returned and that the loan will not open them up to lawsuits
- 62 in U.S. courts.

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For 40 years, the Immunity From Seizure Act provided 64 foreign government lenders with this confidence. However, 65 rulings in several recent Federal cases have undermined the 66 protection provided by the Immunity From Seizure Act. 67 In these decisions, the Federal courts have held that 68 the Immunity From Seizure Act does not preempt the Foreign 69 Sovereign Immunities Act. The effect has been to open 70 foreign governments up to the jurisdiction of U.S. courts simply because they loaned artwork or cultural objects to an 71 72 American museum or educational institution. This has 73 significantly impeded the ability of U.S. institutions to 74 borrow foreign government-owned items. It has also resulted 75 in cultural exchanges being curtailed as foreign government 76 lenders have become hesitant to permit their cultural 77 property to travel to the United States. 78 This bill addresses this situation. It provides that if 79 the State Department grants immunity to a loan of artwork or 80 cultural objects from the Immunity From Seizure Act, then the 81 loan cannot subject a foreign government to the jurisdiction of the U.S. courts under the Foreign Sovereign Immunities 82 83 Act. This is very narrow legislation. It only applies to

one of the many grounds for jurisdiction under the Foreign

- 85 Sovereign Immunities Act. Moreover, it requires the State
- 86 Department to grant the artwork immunity under the Immunity
- 87 From Seizure Act before its provisions apply. And in order
- 88 to preserve the claims of victims of the Nazi government and
- 89 its allies during World War II, the bill has an exception for
- 90 claims brought by these victims.
- 91 If we want to encourage foreign governments to continue
- 92 to lend artwork and other artifacts to American museums and
- 93 educational institutions, we must enact this legislation.
- 94 Without the protections this bill provides, foreign
- 95 governments will avoid the risk of lending their cultural
- 96 items to American institutions, and the American people will
- 97 lose the opportunity to view and appreciate these cultural
- 98 objects from abroad. I urge my colleagues to support this
- 99 bill.
- And I now recognize the gentleman from New York, Mr.
- 101 Nadler, for his opening statement.
- Mr. Nadler. I thank the chairman, and I thank the
- 103 chairman for calling this markup to mark up H.R. 4292, the
- 104 Foreign Cultural Exchange Jurisdictional Clarification Act
- 105 for several reasons. To begin with, the bill addresses an
- 106 apparent inconsistency between the two principal laws that

107	deal with the display of foreign artwork in the United
108	States, namely the Foreign Sovereign Immunities Act of 1976
109	and the 1965 Immunity From Seizure Act.
110	The 1965 act seeks to encourage foreign states to lend
111	their artwork and other cultural property to American museums
112	and educational institutions. The 1976 act, on the other
113	hand, grants foreign states immunity from suits in the United
114	States subject to certain exceptions, including the
115	"expropriation exception." This particular exception denies
116	such immunity if the issue concerns rights and property taken
117	in violation of international law.
118	Unfortunately, confusion has arisen with respect to the
119	interplay between these two laws stemming from a 2007 U.S.
120	District court decision that broadly interpreted the 1976
121	act's expropriation exception to apply to a foreign
122	government's loan of artwork to an American museum. This
123	has, in turn, had a chilling effect on the importation of
124	cultural works for display into the United States.
125	H.R. 4292 addresses this problem by making a narrowly
126	tailored clarification to the 1976 act's expropriation
127	exception concerning artwork or cultural objects imported

128 into the United States for temporary exhibit or display. It

129	clarifies that such articles are immune from a suit from
130	damages if their importation into the United States is
131	pursuant to an agreement between a foreign state that owns or
132	has custody of the work and the U.S. cultural or educational
133	institution; the President has granted the work immune from
134	seizure pursuant to the Immunity From Seizure Act because it
135	is of cultural significance and its temporary exhibit or
136	display is in the national interest; and the President's
137	determination has been published in the Federal Register in
138	accordance with the Immunity From Seizure Act.
139	As a result of this modest measure, foreign states would
140	be immunized from lawsuits that seek damages from artwork
141	that is already immune from seizure pursuant to a
142	presidential determination when the work is in the U.S. for
143	temporary exhibition.
144	And finally, I support this bill because it includes an
145	important exemption for Nazi era claims regarding the
146	ownership of art or cultural objects. This critical carve-
147	out is consonant with longstanding American policy that
148	encourages restitution for victims of the Nazi government and
149	its allied and affiliated governments.
150	In recognition of the Nazi's deliberate campaign to

151 steal artwork from its victims, H.R. 4292 rightfully ensures

- 152 that victims are not foreclosed from pursuing damages for
- 153 stolen art even at the cost of foreclosing cultural exchange.
- 154 It is for these reasons that the House passed a similar
- 155 measure in the last Congress under suspension of the rules by
- 156 voice vote. Indeed, the current version of this legislation
- 157 improves upon its predecessor because it reflects
- 158 recommendations from the Conference on Jewish Material Claims
- 159 Against Germany that clarify the bill's Nazi era exception.
- 160 Accordingly, I urge my colleagues to support this bill.
- I thank the chairman, and I yield back.
- 162 Chairman Goodlatte. The chair thanks the gentleman, and
- 163 recognizes the gentleman from Ohio and sponsor of this
- legislation, Mr. Chabot, for his opening statement.
- 165 Mr. Chabot. Thank you, Mr. Chairman. And I hate to
- 166 repeat what you and the ranking member have already said, but
- 167 I will do it anyway.
- 168 [Laughter.]
- 169 Mr. Chabot. I would like to --
- 170 Chairman Goodlatte. That falls in the category of
- 171 everything that needs to be said has already been said, but
- 172 not everyone who needs to say it has said it.

- 173 Mr. Chabot. Exactly.
- 174 Chairman Goodlatte. So the gentleman is recognized.
- 175 Mr. Chabot. Exactly. And I want to thank Chairman
- 176 Goodlatte. I also want to thank former Chairman Smith
- 177 because we actually passed this in this committee last
- 178 Congress and in the House as well, but the Senate did not act
- 179 on it. We have heard that before. And I also want to thank
- 180 the ranking member and many of my other colleagues, Mr. Cohen
- as well, some of the leaders on this issue over the years.
- 182 It is a simple and straightforward piece of legislation.
- 183 It clarifies the relationship between the Immunity From
- 184 Seizure Act and the Foreign Sovereign Immunities Act, as has
- 185 already been stated. Since 1965, the Immunity From Seizure
- 186 Act has provided the executive branch with the authority to
- 187 grant artwork and other objects of cultural significance
- 188 immunity from seizure by U.S. courts. Its intent is to
- 189 encourage the international, cultural, and educational
- 190 exchange of artwork and other culturally significant
- 191 artifacts, which would otherwise not be available for
- 192 cultural exchange.
- 193 In enacting the Immunity From Seizure Act back in 1965,
- 194 Congress recognized that cultural exchange will produce

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substantial benefits to the United States both artistically 196 and diplomatically. Foreign lending has and should continue 197 to aid cultural understanding and increase public exposure to 198 archaeological artifacts. This bill reaffirms our country's 199 commitment to the promotion of foreign lending of artwork to 200 American museums. 201 However, for artwork and cultural objects owned by 202 foreign governments, the intent of the Immunity From Seizure Act is being frustrated by the Foreign Sovereign Immunities 203 204 Act. A provision of the Foreign Sovereign Immunities Act 205 opens foreign governments up to the jurisdiction of U.S. 206 courts, as has been stated, if foreign government-owned 207 artwork is temporarily imported to the United States. 208 According to the American Association of Museum Directors, this has led on a number of occasions to foreign governments 209 210 declining to exchange artwork and cultural objects with the 211 United States for even temporary exhibitions. 212 For example, in 2010, the Russian Federation imposed a 213 ban on state-owned art loans to American museums on the 214 grounds that such works could be in jeopardy of legal action. 215 As a result of this ban, several U.S. museums, which had loan 216 agreements with Russian national institutions, were forced to

217	cancel long-planned Russian art exhibits. In order to keep
218	the exchange of foreign government-owned art flowing,
219	Congress needs to clarify the relationship between the
220	Immunity From Seizure Act and the Foreign Sovereign
221	Immunities Act.
222	This legislation does just that, ensuring that museums,
223	like the Cincinnati Museum Center and the Cincinnati Art
224	Museum Center, who I recollect was the institution that
225	brought this to my attention in the first place, and other
226	similar museums across the country may continue to present
227	first class exhibits and educate the public on cultural
228	heritage and artwork from around the world. Through
229	enactment of this legislation, we can secure foreign lending
230	to American museums and ensure that foreign art lenders are
231	not entangled in unnecessary litigation.
232	And I want to thank my colleagues, as I mentioned
233	before, for their leadership on this. And I yield back.
234	Chairman Goodlatte. The chair thanks the gentleman, and
235	recognizes the ranking member of the Subcommittee on
236	Constitution and Civil Justice, the new ranking member of the
237	subcommittee, the gentleman from Tennessee, Mr. Cohen, to add

238 to our knowledge of this legislation. The gentleman is

- 239 recognized for his opening statement.
- Mr. Cohen. Thank you. Thank you, Mr. Chairman. And to
- the ranking member and to Mr. Chabot, you know, I do not know
- 242 that I can add anything because everything has been said, I
- 243 quess.
- Voice. More than once.
- 245 Mr. Cohen. But I did want to say that the commonality
- 246 that Cincinnati and Memphis have is that we both have museums
- 247 that present art to our communities which are traditional
- 248 kinds of basic, fundamental, middle of the road, middle
- 249 America communities, and expose them to foreign art and
- 250 ideas, which is wonderful.
- 251 We also had Delta Airlines leave our airports to where
- 252 they became museums and have plenty of space to hang art.
- 253 And we also have the Delta Queen, which we worked on
- 254 together, and I think the Senate probably has not done as
- 255 good a job as we did in the House. So those are things
- 256 Cincinnati and Memphis share other than the American Athletic
- 257 Conference, where we still have Connecticut alive and SMU in
- 258 the NIT. So those are good things.
- 259 Pertaining to this act, the exception for the Nazi art
- 260 that was confiscated or taken by Nazis, the fact that Mr.

- 261 Nadler had endorsed this bill is a great surety for me and
- 262 comfort that this is not going to have any problems there.
- 263 And I want to bring up this issue. I am a co-sponsor with
- 264 Kay Granger, Mike Capuano, and another individual whose name
- 265 we will name later because I cannot recall, of a resolution
- 266 to honor the Monuments Men who saved much of the art that the
- 267 Nazis had confiscated from being destroyed and got it back to
- 268 their owners. And there is a movie about them now -- George
- 269 Clooney -- but the real life stuff is a lot better, the
- 270 original production.
- 271 We are trying to get a gold medal for the surviving
- 272 Monuments Men, and I would ask everybody on this committee to
- 273 sponsor that. We are close to 292, and Kay Granger has done
- 274 a great job. And I would ask you to sign onto that so we do
- 275 good here and we recognize the original people --
- 276 Mr. Nadler. Would the gentleman yield?
- 277 Mr. Cohen. I yield to Mr. Nadler.
- 278 Mr. Nadler. I will be delighted to co-sponsor the
- 279 George Clooney bill.
- 280 [Laughter.]
- 281 Mr. Cohen. The Bob Edsall bill, the Kay Granger bill,
- 282 the Monuments Men bill, the George Clooney bill. So I would

- 283 ask you to sign onto that.
- 284 This is a good bill. It is bipartisan. Art is good.
- 285 We should support it. And I am proud to be a sponsor, and I
- thank everybody that has been thanked. And I yield back the
- 287 balance of my time.
- 288 Chairman Goodlatte. Are there any amendments to H.R.
- 289 4292?
- [No response.]
- 291 Chairman Goodlatte. There being no amendments and there
- 292 not quite being enough members for a reporting quorum, we
- 293 will move to our other piece of legislation and revisit this
- 294 legislation for final reporting as soon as we have a couple
- 295 more members present.
- 296 Pursuant to notice, I now call up H.R. 4323 for purposes
- 297 of markup, and move that the committee report the bill
- 298 favorably to the House.
- 299 The clerk will report the bill.
- 300 Ms. Deterding. H.R. 4323, to reauthorize programs
- 301 authorized under the Debbie Smith Act of 2004 --
- 302 Chairman Goodlatte. Without objection, the bill is
- 303 considered as read and open for amendment at any point.
- 304 [The information follows:]

Chairman Goodlatte. And I will begin by recognizing

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307 myself for an opening statement. 308 Last week, I along with my colleague from California, 309 Ms. Bass, introduced H.R. 4323, the Debbie Smith 310 Reauthorization Act of 2014. This act reauthorizes the 311 Debbie Smith DNA Backlog Grant Program, which is set to 312 expire at the end of this Fiscal Year for an additional 5 313 years. 314 I would like to thank Ranking Member Conyers, Crime Subcommittee Chairman Sensenbrenner, and Ranking Member Scott 315 316 for joining as original co-sponsors of this important 317 legislation. I would like to acknowledge the efforts made by 318 the gentlelady from New York, Ms. Maloney, who has joined us 319 in the hearing room today, in authoring the original Debbie Smith legislation, and thank her for her continued work on 320 321 this matter and her support of this legislation.

This program was originally authorized as part of the

DNA Analysis Backlog Elimination Act of 2000. In 2004, it

1989, Debbie Smith was kidnapped from her home while her

husband, a police officer, was sleeping upstairs. She was

was renamed the Debbie Smith DNA Backlog Grant Program after

rape survivor and victims' rights advocate, Debbie Smith. In

328	dragged into the woods behind her Williamsburg, Virginia home
329	and raped. After the sexual assault, she lived with
330	paralyzing fear that her unknown attacker would return to
331	further harm her and her family. This fear would remain with
332	her for over 6 years until her attacker's DNA sample was
333	finally removed from the State's backlog and included in the
334	National DNA Database. A suspect was identified immediately
335	and subsequently convicted and imprisoned for his crimes.
336	With the goal of eliminating the backlog of untested DNA
337	samples, the Debbie Smith Program awards grants to State and
338	local governments to fund the collection of samples,
339	increased laboratory capacity, and DNA analysis in a timely
340	and appropriate manner. Additionally, funds are awarded to
341	provide training, technical assistance and education to law
342	enforcement officials, court officers, corrections personnel,
343	and forensic science and medical professionals.
344	There can be no dispute regarding the effectiveness of
345	DNA evidence in criminal investigations and prosecutions. As
346	of January 2014, use of the FBI's National DNA Index has
347	provided important assistance in more than 224,000
348	investigations. Unfortunately, demand for testing continues
349	to outpace the capacity of State and local governments to

350 collect and analyze DNA samples. In 2011, laboratories 351 processed 10 percent more forensic DNA cases than in 2009. 352 However, backlogs increased as demand grew by 16 percent 353 during the same period, illustrating the need for continued 354 support of this vital program. 355 I urge my colleagues to support this important 356 legislation reauthorizing the Debbie Smith Program to 357 continue reduction of DNA backlogs nationwide. Without 358 objection, Debbie Smith's letter in support of H.R. 4323, 359 dated March 27, 2014, shall be made a part of the record. [The information follows:] 360 361

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Chairman Goodlatte. And I would now like to recognize 363 the chairman of the Subcommittee on Crime, Terrorism, 364 Homeland Security -- wait a minute. I think we need to go 365 this way first. I will first recognize the acting ranking member of the 366 367 full committee, the gentleman from New York, Mr. Nadler, for 368 his opening statement. Mr. Nadler. Thank you, Mr. Chairman. And thank you for 369 370 holding this markup today. Every 2 minutes in this country 371 someone is sexually assaulted. That means by the time I 372 finish my remarks today, at least one additional man, woman, 373 or child will have been brutally attacked. 374 By the end of this year, more than 200,000 people, 375 nearly all of them women and girls, will have been victimized 376 in this most inhuman way. Only 60 percent of the victims 377 will ever report their attack and barely 3 percent of 378 attackers will ever serve a day in prison. These statistics 379 are staggering, and we are not doing all we can to ensure 380 that every victim has access to the justice she deserves. This failure starts when victims are first treated in 381

hospital emergency rooms. The lack of concern, the failure

to be treated in a timely manner, and the absence of basic

384 information often makes women who have been sexual assaulted 385 or raped feel victimized all over again. We then fail to use 386 evidence collected in a rape kit to find and punish those who 387 commit sexual assaults and rapes. Rape kits are too often misplaced or ignored, with thousands simply collecting dust 388 389 in some jurisdictions. 390 Even when a rape kit is sent to a lab to be tested, 391 there can be long delays before its DNA evidence is examined, analyzed, and compared to other DNA profiles. Every untested 392 393 kit is a lost opportunity to provide justice to victims and 394 to catch dangerous criminals before they victimize additional 395 people. 396 To see the importance of rape kit testing, you need look 397 no further than New York City. More than a decade ago, the city implemented a law mandating testing of every rape kit 398 399 within 30 to 60 days. Since that law took effect, the arrest 400 rate for rape has skyrocketed from 40 percent to 70 percent. 401 Compare that to the national rate of 24 percent. Clearly, 402 the more rape kits we test, the more rapists we get off the 403 streets. Imagine what would happen if we tested all of the 404 400,000 rape kits on the shelf around the country. 405 For many years, I have fought to end the rape kit

- 406 backlog. Back in 2002, I introduced the Rape Kit DNA
 407 Analysis Backlog Elimination Act which would have authorized
- 408 \$250 million to help police departments finance rape kit
- 409 testing. In 2004, I worked closely with my friend, Mr.
- 410 Sensenbrenner, and with others to enact the Justice For All
- 411 Act that created the Debbie Smith DNA Backlog Grant Program,
- 412 which authorized hundreds of millions for DNA testing and
- 413 strengthened the ability of State and local law enforcement
- 414 to test rape kits.
- 415 In the 10 years since the creation of the grant program,
- 416 we have seen some progress, but the backlog continues to be a
- 417 major problem, and progress is uneven across the country. We
- 418 must act today to reauthorize this important program. I urge
- 419 my colleagues to support this bill and work toward the day
- 420 when no rape kit goes untested and every victim of sexual
- 421 assault receives justice.
- Thank you. I yield back the balance of my time.
- 423 Chairman Goodlatte. The chair thanks the gentleman, and
- 424 now recognizes the chairman of the Subcommittee on Crime,
- 425 Terrorism, Homeland Security, and Investigations, and the
- 426 chairman of the full committee at the time when the original
- 427 Debbie Smith Act was passed, the gentleman from Wisconsin,

- 428 Mr. Sensenbrenner, for his opening statement.
- 429 Mr. Sensenbrenner. Well, thank you for recognizing my
- 430 patience, Mr. Chairman. I am pleased to join you, Ranking
- 431 Member Conyers, Crime Subcommittee Ranking Member Scott, and
- 432 Congresswoman Bass as an original co-sponsor of this bill.
- It is important legislation because it reauthorizes the
- 434 Debbie Smith DNA Backlog Grant Program through the end of
- 435 Fiscal Year 2019. I have been a long-time supporter of the
- 436 Debbie Smith Program, which was first authorized in 2000, and
- later expanded under the Justice for all Act of 2004, which I
- 438 authored. The Debbie Smith Program addresses the widespread
- 439 use of a backlog of DNA samples in the possession of State
- 440 and local governments nationwide.
- 441 It authorizes the Justice Department to make grants to
- 442 those governments for the purposes of reducing the backlog of
- 443 DNA samples that are awaiting analysis, including rape kits,
- 444 the collection of DNA samples from offenders and crime
- 445 scenes, increasing the capacity of labs, and providing
- 446 training and education for various law enforcement, court
- 447 corrections, and medical personnel.
- 448 This is a vital program. For each untested rape kit
- 449 sitting in an evidence vault, there could be a victim similar

450	to Debbie Smith living for years in fear that her attacker
451	will return or will never face justice. It is imperative
452	that support for State and local DNA collection and analysis
453	continues with an eye toward elimination of the backlogs and
454	the minimization of the time a victim of sexual assault must
455	live with the inevitable fear and uncertainty inherent in
456	such a situation.
457	The effectiveness of the collection and analysis of DNA
458	evidence in the realm of criminal investigations and
459	prosecutions is unquestioned. In my home State of Wisconsin
460	alone, the FBI's National DNA Database contains over 175,000
461	offender profiles that have aided more than 4,300
462	investigations. Despite advances in technology, training,
463	and lab capacity due at least in part the support provided
464	through the Debbie Smith Program, the number of DNA samples
465	collected from offenders and crime scenes continues to grow
466	faster than State and local governments' ability to perform
467	analyses in a timely manner.
468	The increased workload is, to an extent, attributable to
469	the fact that a growing number of States collect DNA samples
470	from offenders at the time of their arrest, resulting in a
471	larger number of samples than those collected following

472 conviction. Consequently, continued support for this program

- 473 is critically important, and I urge my colleagues to support
- 474 this legislation.
- 475 Chairman Goodlatte. The chair thanks the gentleman, and
- 476 now recognizes the ranking member of the Subcommittee on
- 477 Crime, Terrorism, Homeland Security, and Investigations, the
- 478 gentleman from Virginia, Mr. Scott, for his opening
- 479 statement.
- 480 Mr. Scott. Thank you, Mr. Chairman. Mr. Chairman, H.R.
- 481 4323 is a bipartisan effort to reauthorize programs under the
- 482 Debbie Smith Act. I want to thank the chair, my colleague
- 483 from Virginia, the gentleman from Michigan, Mr. Conyers, the
- 484 ranking member, the chairman of the subcommittee, Mr.
- 485 Sensenbrenner, and the gentlelady from New York, Ms. Maloney,
- 486 for their hard work on this legislation.
- 487 In 2008, we reauthorized the act up through 2014. We
- 488 must extend these grants and programs for the next 5 years.
- 489 Vital to processing DNA evidence for the investigation and
- 490 prosecution in sexual assault cases, H.R. 4323 is a clean
- 491 noncontroversial reauthorization.
- The act has helped State and local law enforcement
- 493 reduce the large backlog of DNA samples waiting to be tested.

494 Grants have been used to hire personnel, purchase supplies 495 for crime laboratories, allowing for the processing of 496 numerous backlogged samples for their inclusion in the 497 Combined DNA Index System, or CODIS, and enhanced our Nation's overall capacity to process samples. Grants have 498 499 also been directed to DNA training and technical assistance 500 for law enforcement, courts, and to sexual assault nurse 501 examiner programs. 502 Crime laboratories almost unanimously report the DNA 503 Backlog Program is essential to their capacity to process 504 samples. But the backlog still remains, and each untested 505 sample represents an unsolved crime. Media reports suggest 506 that the number may be in the hundreds of thousands. Over 507 200 untested samples in Los Angeles actually outlasted the statute of limitations for prosecuting cases, and even in my 508 509 own State we have a significant backlog of untested DNA 510 samples from convicted offenders. We must also do more to strengthen our nationwide 511 512 database and reduce the DNA backlog to prosecute cases for sexual assault without undue delay. Reauthorizing the Debbie 513 514 Smith Act is a clear step in the right direction to bringing 515 perpetrators of sexual assault to justice before they attack

- 516 more victims.
- 517 Debbie Smith is a constituent of mine. She went through
- 518 6 years of agony waiting for the DNA rape kit to finally be
- 519 processed and checked against the CODIS to identify her
- 520 attacker. Unfortunately, many crimes are committed between
- 521 the time criminals could have been caught and the time the
- 522 DNA test actually identifies them. Debbie Smith runs an
- 523 organization called HEART, H-E-A-R-T, Hope Exists After Rape
- 524 Trauma. It is helping to reduce the DNA backlog and get
- 525 victims of sexual assault back to their normal lives. Let us
- 526 honor Debbie Smith's efforts today and report the Debbie
- 527 Smith Act, which is essential to continue the funding of the
- 528 programs under the act.
- 529 Thank you, Mr. Chairman. I yield back.
- 530 Chairman Goodlatte. The chair thanks the gentleman, and
- 531 I will now recognize the chief co-sponsor of this
- 532 legislation, the gentlewoman from California, Ms. Bass, for
- 533 her statement.
- 534 Ms. Bass. Thank you very much, Mr. Chair, and thank you
- 535 for allowing me to read a statement that was written by the
- original author of the bill, Congresswoman Carolyn Maloney.
- This bill has been called the most important anti-rape

538 legislation ever passed, and I am pleased that this committee 539 is working to make sure it does not expire in September. I 540 first introduced this legislation in 2001, and was proud to 541 work with former congress member, Mark Green, Congressman Jim Sensenbrenner, and many other members of this committee to 542 543 pass it in 2004, and again reauthorize it in '08. I was also 544 pleased to work with my colleagues on this committee to include the SAFER Act as part of the Violence Against Women 545 546 Act renewal last year to increase the percentage of Debbie 547 Smith funds dedicated to processing untested rape kits, which 548 really increase the processing to over 75 percent. Federal funding for the processing of DNA evidence is 549 550 critical to eliminating the backlog of 400,000 untested rape 551 kits that exist in State and local law enforcement 552 jurisdictions all over the country. And this is one of those 553 few bills that will actually put criminals behind bars and 554 protect people from one of the most traumatic assaults 555 imaginable, rape. 556 This legislation to extend the program until 2019 is 557 dedicated to people like this bill's namesake, Debbie Smith. 558 Her heart-wrenching story encouraged me back in 2001 during a 559 House Oversight Committee hearing the chairman, Stephen Horn,

560 and I organized to pass the law we are trying to reauthorize 561 now. Debbie had to wait 6 years before DNA evidence finally 562 linked her attacker to the crime. Many other victims have 563 had to wait many more years. 564 The man who assaulted her had also abducted and 565 kidnapped two other women. If her kit had been tested in a 566 timely manner and her attacker prosecuted and put behind 567 bars, it is reasonable to assume that other violent crimes 568 would have never happened. Rapists are repetitive. They do 569 not rape once. They rape multiple times. And according to 570 the FBI, seven more women could have been raped before the 571 rapist was captured. 572 According to the National Institute of Justice, 18 573 percent of unsolved rapes produce evidence that was not 574 submitted by law enforcement agencies to crime labs for 575 analysis. The dedicated funding provided by the bill has had 576 a profound impact over the years. The grants provided to States and local governments have allowed them to 577 578 significantly reduce or eliminate their backlogs. And by using a national DNA database, we have been able to identify 579 580 and convict rapists and prevent more assaults.

As women like Debbie know all too well, the fear, the

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- 582 anger, and the agony of knowing that their attacker has not
- 583 been brought to justice and may be walking the streets is
- 1 like being victimized a second time. There is no more
- 585 important, necessary, or fundamental thing a government can
- 586 and should do than protect its citizens from violent crime.
- 587 There is a moral imperative to eliminate the rape kit backlog
- 588 so that no woman is victimized simply because her government
- 589 failed to act and failed to process the evidence in their
- 590 possession needed to convict her attacker.
- 591 Thank you for your consideration of the Debbie Smith
- 592 Reauthorization Act." And once again, and I want to thank
- 593 the chairman for allowing me to read that statement on behalf
- 594 of Carolyn Maloney. Thank you very much. I yield back my
- 595 time.
- 596 Chairman Goodlatte. The chair thanks the gentlewoman.
- 597 For what purpose does the gentleman from Tennessee seek
- 598 recognition?
- 599 Mr. Cohen. I would like to move to strike the last
- 600 word.
- 601 Chairman Goodlatte. The gentleman is recognized for 5
- 602 minutes.
- 603 Mr. Cohen. Thank you, Mr. Chairman. I appreciate your

604 bringing this bill for markup. The Debbie Smith Act is 605 critical to helping our States and localities address the 606 backlog in testing rape kits, and I am pleased we are 607 continuing our commitment to this important program. I have 608 been a supporter of this from the beginning, and I think 609 Representative Weiner had it back in '07 and brought it to 610 the attention of this committee. 611 Its DNA analysis has been revolutionary both in helping 612 catch criminals and prevent crime from taking place. But 613 this evidence does us no good if it is not being used and if 614 the kits are not tested, and they sit on the labs in police 615 property rooms and are not helping find who committed the 616 rape and protecting others. 617 A recent Memphis Commercial Appeal article highlighted the need to test all these rape kits. In Memphis, we are 618 619 behind by tens of thousands in the testing of kits, and it goes back to the 90s. The article that was in the Sunday 620 paper a week ago and took up five pages of the first section 621 622 was a cover story described as serial rapist who was caught by police in 2012, but who might have been brought to justice 623 many years earlier if only law enforcement had tested rape 624 625 kits from other victims that they had in their possession.

626 Missed opportunities like this across the country happen 627 every day. Because of that, there were at least four victims 628 who had been raped by this rapist who would not have been 629 raped if they would have tested him the first time that they 630 found him, and he would have been convicted and off the 631 streets. The trauma inflicted on those victims can be 632 compounded when they know their assailants roam free, while 633 critical evidence goes untested. So this is an extremely important bill for Memphis and for the country. 634 635 Memphis unfortunately leads the Nation in untested rape 636 kits with a backlog of over 12,000 built up over decades. 637 The mayor and the city leadership have committed themselves to addressing this problem and have devoted significant 638 639 resources to eliminating the backlog. The previous mayors, police directors, previous district attorneys general, and 640 641 sheriffs did not act. Because they did not act, there were 642 people that were victims of rape. 643 Estimates say that it would cost \$6.5 million to test 644 each rape kit that we have, far beyond the means of the city that is forced to tighten its belt in these difficult 645 economic times. That makes Federal funds through the Debbie 646 647 Smith Act vital to this effort to protect people in Memphis

- and the mid-South.
- 649 It is important to note that as important as this bill
- 650 is today, it is only half the equation. I hope that all my
- 651 colleagues will join me in supporting full funding for the
- 652 program when we consider appropriations later this year.
- In the meantime, I thank the chairman and all the
- 654 sponsors for bringing the bill and continuing this commitment
- 655 on appropriations. And I urge strong support, and yield back
- 656 the balance of my time.
- 657 Chairman Goodlatte. The chair thanks the gentleman.
- Are there any amendments to H.R. 4323?
- 659 For what purpose does the gentleman from Texas seek
- 660 recognition?
- Mr. Poe. I move to strike last word.
- 662 Chairman Goodlatte. The gentleman is recognized for 5
- 663 minutes.
- Mr. Poe. Thank you, Mr. Chairman. Sexual assault, of
- all the crimes that are committed, is, I think the most
- 666 unique and, in some cases, the most devastating. We all
- 667 remember the days when sexual assault cases, they were not
- 668 even reported. Many of them are still not reported. Where
- 669 the burden was on the victim in many cases to prove that it

- 670 was not consensual, society and the Justice Department
- 671 finally worked through that, and we started treating victims
- 672 like they should be treated.
- But because sexual assault type crimes are so unique and
- 674 affect the individual in ways that none of us can understand,
- 675 there are long-term effects, effects that unfortunately many
- 676 sexual assault victims never recover from. I have met a good
- 677 many over my career as a prosecutor and a judge, as many of
- 678 you have, and they are very special people, and they should
- 679 be treated that way.
- One of the things that a victim wants more than anything
- 681 is information about who did it. Prosecution is important,
- 682 yes, but they want to know who committed this act against me.
- 683 We have that information at our disposal like in DNA cases.
- 684 I remember the days when there was no so such thing as DNA.
- Nobody even knew what it was. But now we have access to
- 686 that. Victims know we have access to DNA. All we have got
- 687 to do is test it to find out who did it.
- And the excuse has been made and made, oh, we just do
- 689 not have the money. Well, probably resources in government
- 690 ought to go to these issues of public safety and helping
- 691 people, especially sexual assault victims. This bill, the

692 Debbie Smith Act, does that. It helps promote peace of mind

- 693 to sexual assault victims. There can be no excuse for not
- 694 analyzing these sexual assault rape kits so that victims can
- 695 get their day in court, and they can live a little better
- 696 life knowing who did it. But also the perpetrator, who many
- 697 times is running loose somewhere in America, can be captured
- and pay the consequences for committing this awful type
- 699 crime.
- 700 So I yield back. Thank you.
- 701 Chairman Goodlatte. The chair thanks the gentleman.
- 702 Are there any amendments to H.R. 4323?
- 703 [No response.]
- 704 Chairman Goodlatte. There being none, a reporting
- 705 quorum being present, the question is on the motion to report
- 706 the bill, H.R. 4323, favorably to the House.
- 707 Those in favor will say aye.
- 708 Those opposed, no.
- 709 The ayes have it, and the bill is ordered favorably.
- 710 Members will have 2 days to submit views.
- 711 [The information follows:]

712

713 Chairman Goodlatte. Without objection, we will now

- 714 return to reporting H.R. 4292. A reporting quorum being
- 715 present, the question is on the motion to report the bill
- 716 H.R. 4292 favorably to the House.
- 717 Those in favor will say aye.
- 718 Those opposed, no.
- 719 The ayes have it, and the bill is ordered reported
- 720 favorably.
- 721 Members will have 2 days to submit views.
- 722 [The information follows:]

723

724 Chairman Goodlatte. Before the committee recesses, the

- 725 chair would like to thank all their members for their
- 726 participation in marking up these two bipartisan bills.
- 727 And I would like to call the attention of the members to
- 728 someone in the audience, and that is Dr. Bryan Smith, the
- 729 pastor of First Baptist Church in Roanoke, Virginia, who will
- 730 be offering the opening prayer at noon today on the House
- 731 floor. And if you would like to come and meet Dr. Smith, we
- 732 will have a little greeting for him in the majority
- 733 conference room immediately after the adjournment of the
- 734 markup. And everyone is invited on both sides of the aisle.
- 735 With that, the markup is adjourned.
- 736 [Whereupon, at 11:03 a.m., the committee was adjourned.]